

REMARKS

The Official Action of August 13, 2002, entirely in the nature of restriction and election requirements, has been carefully reviewed. With respect, the restriction requirement as outlined on page 2 of the Office Action makes no sense, i.e. making a restriction between non-dementia and dementia is simply wrong. Group I classified as non-dementia includes Claim 6 which states "...or dementia" and Claim 18 which states "...other than dementia". The requirement thus makes no sense to applicant from this point of view.

Moreover, as the present invention is directed to the treatment of both neuro-degenerative and non-neuro-degenerative diseases, any reasonable restriction under U.S. practice would seem to make more sense between neuro-degenerative and non-neuro-degenerative diseases. If such is intended by the restriction requirement, then **applicant hereby respectfully and provisionally elects the treatment of neuro-degenerative diseases (which includes dementia as a neuro-degenerative disease) with traverse and without prejudice.** To the extent that applicants election corresponds with an election of Group I, i.e. Claims 1-6, 8-14, 16-21, 24-31 and 33-36, then applicants election is consistent with an election of Group I. As the species of mental disorder which applicant is electing below (with traverse) is schizophrenia, applicant wishes to be sure that the elected Group (between the two groups of the

restriction requirement on page 2 of the Office Action) is the one within which schizophrenia exists.

As to the reasons why applicant traverses the restriction requirement, it is because the very existence of Claim 1, without any prior art meeting Claim 1, proves that the Groups form a single general inventive concept under PCT Rule 13.1 because both Groups are fully covered by Claim 1, i.e. fall within the scope of Claim 1. This moreover is fully consistent with what happened at the international stage, i.e. no objection on the basis of lack of unity was ever raised during all the proceedings during the international stage, either in the ISR or the IPER. In this latter regard, the U.S. has treaty obligations, and the restriction requirement is glaringly in violation of the Patent Cooperation Treaty.

Even under U.S. practice, the restriction is incorrect, because most of the claims are generic, i.e. certainly according to the breakdown on page 2 of the Office Action, claims 1-6, 8-14, 16, 17, 26, 27 and 33 are generic as they are listed in both groups. There is no statutory or other authority for requiring a restriction in such a situation; at most, under U.S. practice (but not PCT requirements), an election of species can be required in such a situation.

For the many reasons given above, applicant respectfully requests withdrawal of the restriction requirement.

Insofar as the two election of species requirements are concerned, applicant hereby respectfully elects the compound 1,3 cyclic glycerophosphate (1,3-cGP - shown as compound I in Appendix A), and schizophrenia as a particular mental disorder, both elections being made respectfully and provisionally, with traverse and without prejudice.

Again, the requirement has no justification under PCT Rule 13.1. The very existence of generic claims means that each such generic claim describes and sets forth a single general inventive concept among all the species which fall within that generic claim.

Moreover, regarding the requirement to elect a single compound, all the compounds claimed belong to one generic chemical structure. The 10 compounds mentioned in claim 8 with regards to the method claimed of claim 1 are a very restricted family belonging to the generic chemical entity of claim 1.

Regarding the election of disorders, the mental disorders are all connected by the fact that all these disorders are responsive to the promotion of neural activity as claimed in claim 3 and/or promoted by neural cell differentiation claimed in claim 4.

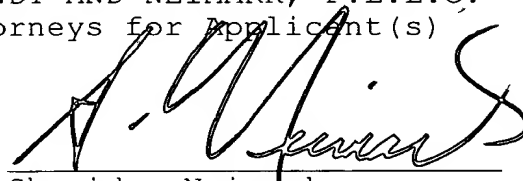
Claims 1-20, 22, 26-30, 32 and 36 read on or are generic to schizophrenia. All of applicants claims are generic to the elected compound.

Applicant respectfully requests favorable reconsideration, withdrawal of the various requirements, and examination on the merits of all the claims. Applicant respectfully awaits the results of a First Examination on the Merits.

Respectfully submitted,

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Version with Markings to Show Changes Made

5. A method according to Claim 4, wherein said disorders and diseases are mental disorders or diseases selected from the group consisting of dementia mental disorders and neuro-degenerative disorders or diseases.